

OPTION 1: MARK-UP-TO-MARKET

Program Incentives:

- A. Owner's distribution can be increased.
 - 1. 100% Section 8 Assisted Properties: Projects participating in the Mark-Up-To-Market program and were subject to limited distributions can take increased distributions. To be eligible for the increased distribution, the property must be maintained in good condition, as demonstrated by a REAC score of 60 or higher, on their most recent inspection.
 - 2. Partially Assisted Properties: Partially Assisted Properties that are NEITHER Section 236, 221 (d) (3) BMIR, or Section 515 may take ALL surplus cash generated on all units in any project year. The Section 8 rents must not exceed the non-Section 8 rents.
 - 3. Section 236, 221 (d) (3) BMIR Partially Assisted Properties: The increased distribution level is equal to the rent increase that occurred on the Section 8 units under the Mark-Up-To-Market program. This amount is added to the current limited distribution to reach the total distribution figure.
- B. Owners of certain below-market properties located in strong markets have the opportunity to mark the units up to market rents.
 - 1. Rent adjustments approved under the Mark-Up-To-Market program are renewed at the lesser of the comparable market rents or 150% of the area Fair Market Rents (FMR). Option 1-B allows sites exceptions to this cap.

Please note: State funded mortgages may have different distribution policies. Please refer to your mortgage documents.

Eligibility Option 1-A:

- A. Property Condition: A Real Estate Assessment Center (REAC) physical inspection score of 60 or higher with no exigent health and safety (EHS) violations.
- B. Ownership: The property owner must be profit motivated or limited-distribution entity. (Reference Chapter 3 of the Section 8 guidebook re: Non-Profit Transfer Eligibility).

- C. Market Rents: The Rent Comparability Study (RCS) must demonstrate that the comparable market gross rents are at or above 100% of the FMR potential.

[Mark-up-to-Market Initial Eligibility Worksheet](#)

Eligibility Exceptions: Option 1-B Discretionary Authority:

If the comparable market rent potential is not greater than 100% of the FMR or the property has use restrictions, (i.e. low income housing tax credits, etc.), the owner must request a waiver under option 1-B. Once MHFA reviews the written request for a waiver, it is forwarded to the local HUD office for approval.

To request a waiver under Option 1-B, the property must meet one of the following three characteristics:

- A. Vulnerable Populations: If the property has more than 50% of the units rented to a vulnerable population (elderly, disabled, or large families of five or more people), the 100% FMR threshold may be waived.
- B. Vacancy Rates: If the property is located in an area where the vacancy rate is less than 3%, the FMR threshold may be waived.
- C. Community Support: If the owner can demonstrate that the property is a priority for the local community by providing documentation of commitments of state or local funds to the property.

Contract Term Requirements:

- A. Five (5) year contract required.
- B. Multi-year renewals, years 2 – 5 the rent is adjusted by the OCAF rent adjustment.
- C. 236 and 221 (d) (3) BMIR projects agree not to prepay any FHA-insured mortgage on this project, except where HUD, in its sole discretion, approves the prepayment as a component of a transaction where the project is preserved as affordable housing.

Submission Requirements:

- A. Rent Comparability Study completed no earlier than 180 days prior to the date that the contract expires. Reference Chapter 9 of the Section 8 guidebook for details.
 - a. A copy of the Notice to Tenants (this should be issued 30 days prior to the contract renewal submission to MFHA).
 - b. Statement or cover letter describing how the Notice to Tenants was distributed
 - c. Tenant comments and owner responses, if applicable
 - d. *The Owner's Certification as to Compliance with the Tenant Comment Procedures form* (The Owner's Certification as to Compliance with the Tenant Comment Procedures cannot be executed before the notice has been posted for 30 days).
 - e. Attachment 3A-2 pages 1, 2, and 3
 - f. Initial Eligibility for Mark-Up-To-Market, Excel Worksheet. (You can access the worksheet via the web at HUD CLIPS)
 - g. If applicable, tenant paid utility analysis.

Submission Deadlines:

- A. The complete submission must be received no later than 120 days prior to the contract expiration date. If the submission is timely, the earliest date that the Mark-Up-To-Market results could be implemented is congruent with their contract renewal date.
 - 1. RCS timeline submission requirements: The Rent Comparability Study (RCS) can be completed no earlier than 180 days prior to the contract expiration date. Reference Chapter 9, page 9: Section 9-7, part B and Section 9-7, part C, of the Section 8 Guidebook for more details.
 - 2. The Notice to Tenants should be posted no later than 30 days before your renewal packet is submitted to MFHA. (The renewal packet is due 120 days prior to the contract expiration date). Therefore, you should post the notice at least 150 days prior to the contract expiration date. That way you

can submit a copy of the Notice to Tenants, and the Owner's Certification To Compliance with Tenant Comment Procedures form, as well as tenant comments and/or owner responses, as applicable.

3. If the submission is received late, (late is considered anything received less than 120 days prior to the contract expiration date), the earliest date that the Mark-Up-To-Market results could be implemented is 120 days after the date that the submission was received by MHFA.

Short Term Renewals:

- A. A short-term renewal is highly suggested if a property's request for Mark-Up-To-Market is received late or if a property is requesting Mark-Up-To-Market Option 1-B. A short-term renewal involves a pro-rated OCAF rent adjustment; submit *Attachment 3B, pages 1 – 3*.
- B. If a short-term renewal is executed, the Mark-Up-To-Market rents cannot be implemented until the short-term contract expires.

Please note: MHFA does not intend this to be an all-inclusive list of federal Mark-Up-To-Market requirements. Please review the Section 8 Contract Renewal Policy Handbook to gain a full understanding of all requirements.